

CEMETERIES

k. ARTICLE I. IN GENERAL

Sec. 18-1. Applicability of chapter.

All persons and lots within the city cemeteries shall be subject to the provisions of this chapter, to all other provisions of this Code, and to all applicable rules and regulations.

(Ord. No. 772, Sec. 12.01, 12-21-92)

Sec. 18-2. Enforcement by agent.

Any action required of or allowed by the city manager, the commission and/or the cemetery superintendent may also be performed by the duly authorized agent of any such individual.

(Ord. No. 772, Sec. 12.31, 12-21-92)

Sec. 18-3. Violation penalties.

Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Ord. No. 772, Sec. 12.29, 12-21-92; Ord. No. 816, Sec. 10, 2-6-95)

Sec. 18-4. Approval of cemeteries.

All cemeteries owned or hereafter acquired or owned by the city are hereby declared to be public burial grounds and no person shall establish or locate any other cemetery within the corporate limits of the city, unless the desirability for the establishment of such cemetery has been affirmatively determined, and the location of such proposed cemetery is first approved, by the city council.

(Code 1965, Sec. 12.01; Ord. No. 772, Sec. 12.01, 12-21-92)

Sec. 18-5. General provisions.

(a) The term "commission," as used in this chapter, shall mean the parks and cemetery commission.

(b) The cemetery office shall generally remain open Monday through Friday from 7:00 a.m. to 3:30 p.m. each day. The cemetery office shall be closed on the holidays enumerated in section 18-85. All such times are subject to change according to the discretion of the commission.

(c) All fees or charges for service shall be payable to the city at the finance department office, or to the cemetery sexton. No other office or person is authorized to accept any monies in payment of any fee or charge. Any person tendering payment to any other person does so at his own risk.

(d) No city employee may solicit or accept any form of payment or gratuity for work or services rendered. City employees at a city cemetery are not permitted to do any work for lot owners or interested parties except upon the direct order of the cemetery sexton.

(Ord. No. 772, Sec. 12.02, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-6. Authority of commission.

The commission is authorized to promulgate such rules and regulations which it deems appropriate concerning mausoleums, markers, decoration of lots and such other matters which the commission deems pertinent to the care and good order of a city cemetery. The commission may amend, revise, repeal, add to, delete from or repromulgate its own rules and regulations, as well as the temporary rules and regulations of the cemetery superintendent, as it deems appropriate.

(Code 1965, Sec. 12.04; Ord. No. 772, Sec. 12.06, 12-21-92)

Sec. 18-7. Duties of cemetery superintendent; emergency discretion.

The cemetery sexton or his duly authorized agent shall see that the provisions of this chapter, as well as all applicable rules and regulations, are complied with, that order is maintained, and that the best interests of a city cemetery are preserved and protected. To that end, the cemetery sexton is authorized to make such exceptions to the rules and regulations which he deems necessary to meet emergencies not covered by the provisions of this chapter or the rules and regulations promulgated pursuant to this chapter. The cemetery sexton shall report all such exceptions to the city manager.

(Ord. No. 772, Sec. 12.05, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-8. Liability of city and cemetery.

(a) The city and/or a city cemetery shall not be held responsible for damages by the elements, acts of God, common enemies, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or the order of any military or civil authority, whether the damages be direct or collateral.

(b) All noncity employees working in a city cemetery shall be fully responsible for any damage done by them or their agents. Upon completing their work, such noncity employees must immediately remove all tools, equipment and debris from a city cemetery, and must repair any damage done to the cemetery grounds.

(Ord. No. 772, Sec. 12.03, 12-21-92)

Sec. 18-9. Exceptions to chapter.

Special cases may arise in which the literal enforcement of a provision of this chapter or a rule or regulation promulgated pursuant to this chapter may impose an undue and unnecessary hardship. Notwithstanding any such provision to the contrary, the city manager and/or the commission, after due consideration, may make such exceptions, suspensions, or modifications of any applicable provision as they deems appropriate. Any such exception, suspension or modification shall not be construed as affecting the general application or the

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intent of the provision of this chapter and/or any rules and regulations promulgated pursuant to this chapter.

(Ord. No. 772, Sec. 12.07, 12-21-92)

Secs. 18-10--18-30. Reserved.

I. ARTICLE II. CONDUCT OF VISITORS

Sec. 18-31. Use of designated roads and walkways; exception.

All persons within the cemetery shall use only the designated roads, drives, alleys, walks, aiseways; provided, however, a person may carefully walk upon or across lots, graves or lawns when necessary to gain access to a lot.

(Ord. No. 772, Sec. 12.08(a), 12-21-92)

Sec. 18-32. Destruction of plants or animals; defacement of property.

No person shall pick any flower (wild or cultivated); break or damage any tree, shrub or plant; or write upon, deface or destroy any memorial, marker, fence or other structure. No person shall destroy or otherwise disturb any bird or animal within the cemetery if not authorized by the city manager, the cemetery superintendent, or the commission.

(Ord. No. 772, Sec. 12.08(b), 12-21-92)

Sec. 18-33. Changing of appearance or layout.

Within the cemetery, no person shall alter any contour of the ground, or construct, build or place any type of material, component or other feature which would change the general appearance or layout of the cemetery without the express consent of the commission. Those components or features that are currently in place shall be removed no later than January 1, 1998.

(Ord. No. 772, Sec. 12.08(d), 12-21-92)

Sec. 18-34. Enumeration of forbidden acts.

Within the cemetery, no person shall loiter, litter, bring in or consume any alcoholic beverage or controlled substance, peddle or solicit the sale of any commodity unconnected to cemetery usage, place signs or notices, allow animals to run at large or otherwise beyond his control, or engage in any play or recreational activity.

(Ord. No. 772, Sec. 12.08(c), 12-21-92; Ord. No. 975, Sec. 1, 11-16-09)

Secs. 18-35--18-55. Reserved.

m. ARTICLE III. TRAFFIC REGULATIONS

Sec. 18-56. Speed limit.

No person shall drive a vehicle in excess of 15 miles per hour in the cemetery.

(Ord. No. 772, Sec. 12.09(a), 12-21-92)

Sec. 18-57. Vehicles--Driving on roads.

No person shall drive a vehicle except on the established roads in the cemetery.

(Ord. No. 772, Sec. 12.09(b), 12-21-92)

Sec. 18-58. Same--Operation for recreation.

No person shall operate a vehicle in the cemetery for recreational purposes.

(Ord. No. 772, Sec. 12.09(d), 12-21-92)

Sec. 18-59. Parking--Removal.

No person shall park a vehicle or leave a vehicle in such a location as to prevent any other vehicle from passing. Any vehicle parked in such a manner may be ordered removed by the cemetery superintendent, and the owner and/or operator shall be responsible for all costs.

(Ord. No. 772, Sec. 12.09(c), 12-21-92)

Sec. 18-60. Same--In front of open grave.

No person shall park a vehicle in front of an open grave, unless the person is attending the funeral pertaining to such open grave, and the parking area is not otherwise reserved.

(Ord. No. 772, Sec. 12.09(e), 12-21-92)

Sec. 18-61. Conflicting regulations.

The provisions of the traffic and motor vehicles chapter of this Code are hereby adopted as the applicable regulations for vehicular traffic within the confines of the cemetery. Whenever a conflict of law should arise between the provisions of this chapter and the traffic and motor vehicles chapter of this Code, the provisions of this chapter shall control.

(Ord. No. 772, Sec. 12.10, 12-21-92)

Secs. 18-62--18-80. Reserved.

n. ARTICLE IV. FUNERALS

Sec. 18-81. Funeral processions.

No funeral procession shall enter the cemetery unless authorized by the cemetery superintendent. Once in the cemetery, a duly authorized funeral procession shall proceed according to and be under the direction of the cemetery superintendent until completion. Funeral directors must present the necessary burial or transit permit, as required by state law.

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(Ord. No. 772, Sec. 12.11(a), 12-21-92)

Sec. 18-82. Saturday service and interment.

If possible, interment for a Saturday service shall be made on the same day as the service. Notice of interment must be given to the cemetery sexton at least 24 hours in advance of the proposed interment in accordance with Sec. 18-86.

(Ord. No. 772, Sec. 12.11(b), 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-83. Charges and fees for services.

Charges and fees for services shall be as recommended by the commission and approved by the council.

(Code 1965, Sec. 12.03; Ord. No. 772, Sec. 12.11, 12-21-92)

Sec. 18-84. Cessation of construction work during funeral; enforcement.

All cemetery work in the general area of a funeral shall cease while the funeral is being conducted. All trucks and workers shall withdraw a reasonable distance from the location of the funeral. The cemetery superintendent shall have the authority and discretion to enforce this section.

(Ord. No. 772, Sec. 12.28, 12-21-92)

Sec. 18-85. Conduct of business prohibited on Sundays and holidays; exceptions for interments, additional charge.

Interments, disinterments, removals or cremation interment services are prohibited on Sundays or any of the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, day after Thanksgiving, one-half day before Christmas, Christmas Day, and any additional holidays specified in a collective bargaining agreement covering city employees working in the cemetery. Should any such holiday fall or be legally observed on a Saturday or Monday, funerals shall be conducted on the last business day preceding or first business day following such legal observance; provided, however, if an interment must be made on a Sunday or a holiday because of health department requirements, religious tenets, or if for any other reason, an additional fee recommended by the commission and approved by the city council shall be added to the regular interment charge.

(Ord. No. 772, Sec. 12.12, 12-21-92)

Sec. 18-86. Interments--Time and fees.

Notice of an interment must be given to the cemetery sexton at least 24 hours in advance of the proposed interment. One week's notice is required prior to any proposed disinterment or removal. The cemetery sexton may delay an interment until a more expedient time if the funeral party arrives at the cemetery entrance after 3:30 p.m., or if two or more funeral parties arrive at the same or approximately the same time. For a Saturday interment, an additional fee recommended by the commission and approved by the city council may be added to the regular interment charge.

(Ord. No. 772, Sec. 12.13, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-87. Same--Verbal orders.

Neither the commission, the cemetery superintendent, nor any city employees working in the cemetery shall be held responsible for following or refusing to follow any order given by telephone, or for any mistake caused by the lack of precise and proper instructions as to the particular space, size and location in a lot where interment is desired. Orders given by the funeral director for the opening of a grave will be construed as orders from the lot owners or heirs.

(Ord. No. 772, Sec. 12.14, 12-21-92)

Sec. 18-88. Same--Correction of errors.

(a) The cemetery superintendent and city employees working in the cemetery shall have the right to correct any errors pursuant to interments, disinterments or the description, transfer or conveyance of any interment property.

(b) When an interment is to be made in a lot, the location of such interment shall be designated by the lot owners or heirs. The cemetery superintendent may reject any proposed location of interment if he deems that such location would not be consistent with the appearance of surrounding lots. Should the lot owners or heirs not make an accepted designation, the cemetery superintendent shall have the right to designate the location of the interment. No damage liability shall attach because of any error made by the cemetery superintendent in so designating the location of interment.

(c) All interments, disinterments, removals and cremated interments shall be performed by city employees.

(Ord. No. 772, Sec. 12.15, 12-21-92)

Sec. 18-89. Same--One per grave; exceptions.

Unless specifically provided to the contrary, only one interment is permitted per grave in the cemetery and the interment of more than one body per grave is prohibited. Exceptions to this rule are: a mother and her infant if interred at the same time, and two sibling infants if interred at the same time. Further, more than one person's cremated remains may be interred in a single grave. However, only one memorial may be used to identify the persons interred in one grave, and the memorial shall comply with the dimension regulations for a single grave marker.

(Ord. No. 772, Sec. 12.18, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-90. Disinterments.

(a) Disinterment or disinterment and removal of a body or cremated remains by any person to allow the lot to be sold, or removal of such body or remains contrary to the expressed wish of the interred or cremated lot owner, is prohibited.

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(b) Subject to subsection (a) of this section, a body or cremated remains may be removed from its original lot to a larger or better lot in the cemetery, purchased or otherwise legally obtained for that purpose.

(c) Due care shall be exercised in making a disinterment and removal; however, no damage liability shall be attached to the city for any damages whatsoever including, but not limited to, the casket, burial case or urn from such disinterment and removal.

(d) The charges for any disinterment or removal shall be paid in advance.

(Ord. No. 772, Sec. Sec. 12.17(b)--(d), 12.19(d), 12-21-92)

State law reference(s)--Disinterment of bodies, MCL 333.2853, MSA 14.15(2853).

Sec. 18-91. Burial vaults.

In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, every burial shall be made in a burial vault made of metal or concrete. Reinforced plastic or combination units may be used for infant interments only.

(Ord. No. 772, Sec. 12.16, 12-21-92)

Sec. 18-92. Unlawful use of lot.

A lot owner shall not allow any interment to be made on his lot for remuneration of any kind.

(Ord. No. 772, Sec. 12.17(a), 12-21-92)

Sec. 18-93. Grave accounts.

(a) The full purchase price of the designated lot and grave opening shall be paid before any proposed interment occurs.

(b) Arrangements for the payment of any further indebtedness due the city per incumbent in the cemetery shall be made before the proposed interment occurs.

(c) A nonresidency charge shall apply to all persons outside of the city limits who are interred in, reserve grave space in and/or purchase lots in the cemetery. The nonresidency charge shall not apply to a person who had been a bona fide city resident living outside of the city on the date of death because of residence in a rest home, convalescent home or hospital, or a person on active duty with the United States Armed Forces who maintains a current city address. The burden of establishing residency shall be the responsibility of the family or administrator of the deceased.

(d) All payments under this section shall be made to the city at the finance department office.

(Ord. No. 772, Sec. 12.19, 12-21-92)

Secs. 18-94--18-115. Reserved.

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q. ARTICLE V. LOTS

Sec. 18-116. Possession by permission.

No person shall acquire absolute unconditional title in fee to any cemetery lot. The purchase and entry of a lot holder and his subsequent possession are by permission, a license and a right of burial, and shall not constitute an absolute ownership in fee regardless of the form of conveyance.

(Ord. No. 772, Sec. 12.20(a), 12-21-92)

Sec. 18-117. Selection; payment.

Every person desiring to purchase a cemetery lot shall ask the cemetery superintendent for assistance in making a selection. After the selection has been made, the purchaser shall make his payment to the city at the finance department office.

(Ord. No. 772, Sec. 12.20(b), 12-21-92)

Sec. 18-118. Payment on contract or time purchases.

On contract or time purchases, the balance shall be paid with interest, as determined by city council resolution from time to time.

(Ord. No. 772, Sec. 12.20(c), 12-21-92)

Sec. 18-119. Cemetery fund.

All money raised for cemetery purposes and all money received from the sale of lots or otherwise shall be deposited in the general fund of the city, and all such funds both as to principal and interest may be used by the city for the care and maintenance of the cemeteries. The principal balance of the perpetual care fund as of January 1, 1993, shall be maintained, and all interest realized from the investment of the existing perpetual care fund may also be used for the maintenance of the cemeteries.

(Code 1965, Sec. 12.05; Ord. No. 772, Sec. 12.24, 12-21-92)

Sec. 18-120. Issuance of deed and certificate of perpetual care.

When a lot is paid for in full, a Right of Burial shall be issued to the purchaser. When a lot is purchased by more than one person, each person's interest in the lot shall be specifically defined. When property is transferred to a nonresident, the nonresident fee will be charged, if applicable.

(Ord. No. 772, Sec. 12.20(d), 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-121. Perpetual care.

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(a) All lots shall be sold with perpetual care benefits. The money received for perpetual care shall be held in trust and invested as provided by law. Perpetual care includes, without limitation and according to the city's discretion, the cutting, trimming, sprinkling and fertilizing of the grass, the raking and cleaning of the grounds, the replacing of turf under certain conditions, and the pruning of shrubs and trees, all at reasonable intervals as determined by the city.

(b) The perpetual care assumed by the city shall in no case mean the maintenance, repair or replacement of any memorial, urn, or mausoleum placed or erected upon lots, nor the performance of any special or unusual work which the city determines to be beyond the scope of perpetual care.

(c) Any lot space which was purchased in the past without perpetual care may receive perpetual care if the owners or heirs pay the specified price. Information regarding perpetual care may be obtained from the cemetery superintendent's office.

(d) The city reserves the right to perform all the work for the care and upkeep of lots in the cemetery; provided, however, this reservation shall not be interpreted to add to the city's responsibilities under this chapter.

(Ord. No. 772, Sec. 12.23, 12-21-92)

State law reference(s)--Perpetual care of cemetery by municipality, MCL 128.1, MSA 5.3165.

Sec. 18-122. Descriptions.

The description of each lot shall be in accordance with the cemetery records kept in the office of the cemetery superintendent.

(Ord. No. 772, Sec. 12.20(e), 12-21-92)

Sec. 18-123. Use.

No lot shall be purchased or sold or rights transferred for speculative purposes. No lot shall be used for any other purpose than for burial of human dead.

(Ord. No. 772, Sec. 12.21(b), 12-21-92)

Sec. 18-124. Transfer.

Any transfer of a lot or part thereof to another party shall be recorded in the office of the city clerk, which shall notify the cemetery superintendent of such transfer. No person shall be recognized as the owner or part owner unless so recorded in the office of the city clerk. A lot owner shall notify the cemetery superintendent in writing of any change in his post office address.

(Ord. No. 772, Sec. 12.21(a), 12-21-92)

Sec. 18-125. Use of roads and drives.

No easement or right of interment shall be granted to any lot owner in any road, drive, alley, walk or aisle way within the cemetery. However, such roads, drives, alley, walk or aisle ways may be used when necessary as means of access to locations in the cemetery, as long as devoted to that purpose.

(Ord. No. 772, Sec. 12.22, 12-21-92)

Sec. 18-126. Interment rights.

A person may be interred in a lot even absent an interest therein. Upon a timely written objection duly filed with the cemetery superintendent by any person having an interest in the lot, no interment shall be allowed except upon the written consent of all persons having an interest in the lot. An heir at law of any lot owner of record may be buried in such lot as provided in this section or by state law.

(Ord. No. 772, Sec. 12.26, 12-21-92)

Sec. 18-127. Descent of interment rights.

Ownership of interment rights shall descend by testamentary disposition of the owner, or as personalty under the law of descent and distribution of the state.

(Ord. No. 772, Sec. 12.25, 12-21-92)

Sec. 18-128. Tax exempt status.

To the extent allowed by law, lots shall be exempt from tax and from seizure by execution. No mortgage or other encumbrance shall be given on any lot.

(Ord. No. 772, Sec. 12.27, 12-21-92)